



RICHARD J. CODEY
Acting Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
124 Halsey Street, 6th Floor, Newark, NJ 07102



PETER C. HARVEY
Attorney General

JEFFREY BURSTEIN
Acting Director

April 7, 2005

Mailing Address:
P.O. Box 45012
Newark, NJ 07101
(973) 504-6440

By Certified and Regular Mail

Steven Roth, O.D.
1107 Mantua Pike
Route 722
Mantua, New Jersey 08051

Re: Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Roth :

This letter is to advise you that the New Jersey State Board of Optometrists (the "Board") has had an opportunity to review information concerning the services that you provided to Margaret Fogerty and J.S. son of JLS. Both complainants allege that they received eye examinations and were fitted for contact lenses. Both patients subsequently cancelled their orders for purchase of contact lenses and were told that you would provide them with a full refund for fitting charge and purchase of contact lenses but that your office would not provide them with the prescription for the contact lenses as it was your policy to include the purchase of the contact lenses as part of the fitting fee.

The Board has now had an opportunity to review all available information which includes the complete patient records of Margaret Fogerty and J.S. and your testimony at the investigative inquiry before the Board held on May 19, 2004 which you attended with your attorney, James Schragger. The Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(h) in that you failed to provide both patients with the prescription when they refused to purchase contact lenses from you. Instead of providing them with the prescription when they cancelled the contact lens order, you admitted that it was your practice to offer them a full refund which included the cost of the fitting and the cost of purchasing the contact lenses. Said practice is in violation of N.J.A.C. 13:38-6.1(c). The Board acknowledges your testimony at the inquiry that you recently changed your office procedures to comply with the federal statute, i.e. the Fairness to Contact Lens Consumers Act at 15 U.S.C.A. § 7601 which became effective in February of 2004 and no longer engage in this practice.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Respondent shall cease and desist from withholding copies of the patient's prescription once the contact lens fit is complete whether or not the patient purchases the contact lenses.
2. Respondent shall be formally reprimanded for violation of N.J.S.A. 13:38-6.1(c) that requires release to the patient of a copy of the patient's contact lens prescription whether or not the patient purchased contact lenses.
3. Respondent shall provide to patients, Margaret Fogerty and J.S. a copy of their contact lens prescription.
4. Respondent shall pay a penalty in the amount of \$ 500.00. (to be paid immediately upon signing of the acknowledgment at the bottom of this letter). Payment shall be made by certified check or money order and made payable to the Board of Optometrists and mailed to the attention of Susan Gartland, Executive Director, P.O. Box 45012, Newark, New Jersey 07101.
5. Respondent shall pay costs incurred by the Board in the amount of \$180.00 and mailed by certified check or money order to the attention of Susan Gartland, Executive Director, at the address listed in paragraph #4.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

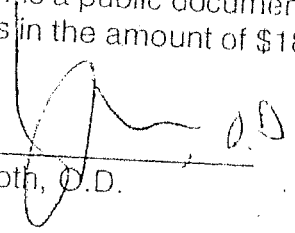
In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that your attorney, James. Schragger, contact Deputy Attorney General, Carmen A. Rodriguez who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD OF
OPTOMETRISTS

By: 
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Steven Roth, O.D., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$500.00 plus costs in the amount of \$180.00 (to be paid upon signing of this acknowledgment).


Steven Roth, O.D.

Dated:

4/20/05

cc: James Schragger, Esquire
Carmen A. Rodriguez, Deputy Attorney General